



BILL NO. S-74-04-30

SPECIAL ORDINANCE NO. S- 61-74

AN ORDINANCE approving an Agreement with
Engle Ridge Corporation for Sewer Extension

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
WAYNE, INDIANA:

SECTION 1. The Agreement approved the 9th day of April, 1974
between the City of Fort Wayne, by and through its Mayor and the Board of Public
Works and ENGLE RIDGE CORPORATION, for construction of a sanitary sewer
system, as follows:

15-Inch Sanitary Sewer Line

Beginning at an existing pumping station located 30[±] lineal
feet South of and 70[±] lineal feet East of the centerline inter-
section of Engle Road and Clubview Drive; thence, West 40[±]
lineal feet to a proposed manhole located 30[±] lineal feet South
of and 30[±] lineal feet East of the centerline intersection of
Clubview Drive and Engle Road; thence, South 1,400[±]
lineal feet along the East right of way line of said Clubview
Drive to a proposed manhole located 30[±] lineal feet East of
the centerline extension of Clubview Drive and 1,430[±] lineal
feet South of the centerline of Engle Road; thence due East
400[±] lineal feet terminating at a proposed manhole.

Pumping Station and Force Main

Beginning at a point that will be the location of a pumping
station located 30[±] lineal feet South of and 70[±] lineal feet
East of the centerline intersection of Clubview Drive and
Engle Road; thence, Easterly along and parallel to the South
right of way line of Engle Road 3,550[±] lineal feet terminating
at an existing sanitary manhole. Said sewer shall be 8-inch
force main and 15-inch gravity sewer

for a cost of \$47,012.00, to be reimbursed when tap-ins are made, plus engineer-
ing costs, all as more particularly set forth in said Agreement, which is on file
in the Office of the Board of Public Works, and is by reference incorporated
herein and made a part hereof, is hereby in all things ratified, confirmed and
approved.

SECTION 2. This Ordinance shall be in full force and effect from
and after its passage and approval by the Mayor.

APPROVED AS TO FORM
AND LEGALITY

CITY ATTORNEY

Councilman

Read the first time in full and on motion by Burns, seconded by Hinga, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 197_____, at _____ o'clock P.M., E.S.T.

Date: 4-23-74

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Hinga, and duly adopted, placed on its passage. Passed (~~Lost~~) by the following vote:

	AYES <u>9</u>	NAYS _____	ABSTAINED _____	ABSENT _____	to-wit:
BURNS	<u>✓</u>	_____	_____	_____	
HINGA	<u>✓</u>	_____	_____	_____	
KRAUS	<u>✓</u>	_____	_____	_____	
MOSES	<u>✓</u>	_____	_____	_____	
NUCKOLS	<u>✓</u>	_____	_____	_____	
SCHMIDT, D.	<u>✓</u>	_____	_____	_____	
SCHMIDT, V.	<u>✓</u>	_____	_____	_____	
STIER	<u>✓</u>	_____	_____	_____	
TALARICO	<u>✓</u>	_____	_____	_____	

DATE: 5-14-74

Charles W. Westerman
Mervin J. Shuck, Dep. Clerk
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. S-61-74 on the 14th day of May, 1974.

Charles W. Westerman ATTEST: (SEAL)
Mervin J. Shuck, Dep. Clerk
CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of May, 1974, at the hour of 0.00 o'clock A M., E.S.T.

Charles W. Westerman
Mervin J. Shuck, Dep. Clerk
CITY CLERK

Approved and signed by me this 15th day of May, 1974, at the hour of 11:30 o'clock A M., E.S.T.

Sam H. Shuck
MAYOR

Bill No. S-74-04-30

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance
approving an Agreement with Engle Ridge Corporation for Sewer Extension

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance SS PASS.

Paul M. Burns - Chairman

James S. Stier - Vice-Chairman

Vivian G. Schmidt

Donald J. Schmidt

Eugene Kraus, Jr.

DATE 5-11-74 CONCURRED IN
CHARLES W. WESTERMAN, CITY CLERK 74.1

66-285-14 H.I.
4/27/74

AGREEMENT FOR SEWER EXTENSION

THIS AGREEMENT, made in triplicate, this 9th day of April, 1974, by and between ENGLE RIDGE CORPORATION, hereinafter referred to as "DEVELOPER", and the CITY OF FORT WAYNE, INDIANA, an Indiana municipal corporation, hereinafter referred to as "CITY", WITNESSETH:

WHEREAS, the Developer has constructed a sanitary sewer system, consisting of a line, force main and pumping station, hereinafter referred to as "Sanitary Sewer", and described as follows:

15-Inch Sanitary Sewer Line

Beginning at an existing pumping station located 30[±] lineal feet South of and 70[±] lineal feet East of the centerline intersection of Engle Road and Clubview Drive; thence, West 40[±] lineal feet to a proposed manhole located 30[±] lineal feet South of and 30[±] lineal feet East of the centerline intersection of Clubview Drive and Engle Road; thence, South 1,400[±] lineal feet along the East right of way line of said Clubview Drive to a proposed manhole located 30[±] lineal feet East of the centerline extension of Clubview Drive and 1,430[±] lineal feet South of the centerline of Engle Road; thence due East 400[±] lineal feet terminating at a proposed manhole;

Pumping Station and Force Main

Beginning at a point that will be the location of a pumping station located 30[±] lineal feet South of and 70[±] lineal feet East of the centerline intersection of Clubview Drive and Engle Road; thence, Easterly along and parallel to the South right of way line of Engle Road 3,550[±] lineal feet terminating at an existing sanitary manhole. Said sewer shall be 8-inch force main and 15-inch gravity sewer;

all in accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the office of the Chief Engineer of the Water Pollution Control Engineering Department, and known as Engle Ridge Sewer Plan, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, and which sewer will serve not only land in which the Developer has an interest, but also adjoining land areas.

WHEREAS:

1. The total oversizing cost of construction of the sewer is represented to be \$34,534.53; composed of \$29,606.00 for construction costs, \$4,428.53 for engineering services, and \$500.00 for legal fees; and,
2. The City of Fort Wayne will finance the oversizing cost for the 15-inch sanitary sewer line portion of the Sewer, represented to be \$18,376.14; composed of \$17,406.00 which will be paid to the Developer for construction cost, and \$970.14 for City engineering services, which will be absorbed by City upon acceptance by City and payment of all inspection charges; and,
3. The Developer did finance the oversizing cost of the aforementioned pumping station and force main portion of the Sewer, represented to be \$16,158.39; composed of \$12,200.00 for construction cost, \$3,458.39 for private engineering costs, and \$500.00 for legal fees.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER

The Developer shall cause said Sewer to be constructed and located in accordance with said plans, specifications and profiles, all approved by the City, under private contract to be let within sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by City, and the right of City to halt construction if there shall be noncompliance therewith. Said Sewer shall not be deemed permanently connected into the sewer system of City until final acceptance by City. Upon completion, said Sewer shall become the property of City, and City shall

accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by City.

2. COST OF CONSTRUCTION

The Developer agrees to pay the entire cost and expense of construction of said Sewer, in cash, including City inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER

Said Sewer, when accepted by the City, will serve the following area of the Developer:

That part of the West half of the Northeast Quarter of Section 20, Township 30 North, Range 12 East, Allen County, Indiana, lying North of the North right of way line of the Norfolk & Western Railroad, along with that part of the West half of the Northeast Quarter of said Section, Township and Range lying South of the South right of way of said Norfolk & Western Railroad;

The South half of the Southeast Quarter of Section 17, Township 30 North, Range 12 East, Allen County, Indiana, excepting a northwesterly triangular tract containing fourteen (14) acres of land; and also excepting the East 498 feet of the said South half of the Southeast Quarter of Section 17, Township 30 North, Range 12 East, Allen County, Indiana;

ALSO EXCEPTING the following described tract of land, to-wit: Beginning at a point on the South line of the South half of the Southeast Quarter of Section 17, Township 30 North, Range 12 East, in Allen County, State of Indiana, said point being situated 498.0 feet West of the Southeast corner of said South half of the Southeast quarter of Section 17, Township 30 North, Range 12 East; thence, North 382.0 feet on a line parallel to the East line of the said South half of the Southeast quarter of Section 17, Township 30 North, Range 12

East; thence, West 180.0 feet parallel to the South line of said quarter Section; thence, South 382.0 feet on a line parallel to the East line of said quarter section to the South line thereof, said line being also the centerline of the Engle Road in said Section, Township and Range; thence, East 180.0 feet along the last described lines to the place of beginning, containing 1.58 acres of land, more or less.

As the Developer will pay for the cost of construction of said Sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate, except that Real Estate owned by the Developer South of the N&W R.R. as shown on the attached EXHIBIT "A" for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connection to City sewer mains and treatment of sewage therefrom.

4. CHARGE AGAINST EXCESS AREA

Said Sewer, when constructed, will also serve additional or excess areas identified as Zone 1 and Zone 2, as shown on attached EXHIBIT "A". In the event any present or future owners of said exhibited excess area noted as Zone 1 and Zone 2 shall, at any time, within fifteen (15) years, after the date of this agreement, desire to use said sewer or any extension thereof, whether by direct tap or through the extension or connection of lateral lines to service such land, City, through its duly constituted authorities, before permitting such use, shall require, by contract or assessment, as may be appropriate, that such owner or owners of said excess area pay to City, in addition to the cost of the standard tap-in and

inspection fees, an area connection charge of \$86.66 per acre, or \$0.0019894 per square foot, which represents the prorata share of the oversizing cost for the pumping station and force main portion of the sewer by Developer, for all the areas within Zone 1 and 2, as shown in the attached EXHIBIT "A". All monies so collected by the City for the Developer shall be paid by City to Developer within sixty (60) days of the receipt thereof by City. An additional area connection charge of \$123.79 per acre for all areas within Zone 1, as shown on EXHIBIT "A", shall be paid to City at the time of any connection. This area connection charge represents the oversizing cost expended by the City for the 15-inch sanitary sewer line portion of the sewer.

5. BOND

This contract is subject to Developer furnishing a satisfactory Performance and Guaranty Bond for the value of the Sewer, which shall guarantee said 15-inch Sanitary Sewer line portion of the Sewer against defects for a period of three (3) years from the date of final acceptance and shall guarantee said pumping station and force main portion of the Sewer against defects for a period of one (1) year from the date of final acceptance of said Sewer by the City.

6. LIMITATION ON USE

Said Sewer shall be constructed for disposal of sanitary sewage only and neither the parties hereto, their successors or assigns, or any future owner of any land serviced by said Sewer shall at any time discharge or permit to be discharged or to flow into said Sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION

The Developer, for itself, its successors in title, and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by it, as described in Article 3 herein, or hereafter served by said Sewer or any extension thereof.

In further consideration and to induce City to execute and ratify this contract, said Developer, for itself, its successors and assigns, agrees by this contract to vest in City the permanent right, at its discretion, to annex to the City of Fort Wayne at any future time by duly authorized ordinance, the said real estate described in Article 3 herein.

Developer further agrees that any deeds, contracts, or other instruments of conveyance made by the Developer, its successors or assigns transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Developer, its successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of the City as hereinafter provided.

Any owner or owners of land which is now, or hereafter, located outside the corporate limits of City who connect into the Sewer constructed hereunder, shall be deemed to thereby waive his, her, their or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said Sewer.

8. GOVERNING STATUTE

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (Burns Indiana Statutes Anno., 1968 Suppl., Sections 48-3963, 3964 and 3965), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

DEVELOPER:

ENGLE RIDGE CORPORATION

By Nicholas Litchin
(Nicholas Litchin) President

By Edward J. Moppert, Jr.
(Edward J. Moppert, Jr.) Secretary

DIGEST SHEET

J-74-04-30

TITLE OF ORDINANCE: Sewer Extension Agreement with Engle Ridge CorporationDEPARTMENT REQUESTING ORDINANCE: Board of Public WorksSYNOPSIS OF ORDINANCE: Sewer extension agreement requiring City paying \$17,406.00
for oversizing and absorbing engineering costs.Reimbursement shall be made to City when future tap-ins are made.EFFECT OF PASSAGE: Extension of City sewers and revenue to City for sewerage
charges.EFFECT OF NON-PASSAGE: Failure to provide sewer service requested in outlying area.MONEY INVOLVED (Direct Costs, Expenditures, Savings): \$47,012.00 from Sewer Utility Fund - to be reimbursed when tap-ins are made.ASSIGNED TO COMMITTEE (J.N.): City Utility